

# JUDICIAL COUNCIL MEETING

## Minutes

January 31, 2022

Meeting held through Webex

12:00 p.m. – 1:23 p.m.

*Chief Justice Matthew B. Durrant, Presiding*

### **Committee Members:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Todd Shaughnessy, Vice Chair  
Hon. Keith Barnes  
Hon. Augustus Chin  
Hon. David Connors  
Hon. Ryan Evershed  
Hon. Paul Farr  
Hon. Michelle Heward  
Hon. David Mortensen  
Justice Paige Petersen  
Hon. Kara Pettit  
Hon. Derek Pullan  
Hon. Brook Sessions

### **Excused:**

Hon. Mark May  
Margaret Plane, esq.  
Michael Drechsel

### **Guests:**

### **AOC Staff:**

Ron Gordon  
Cathy Dupont  
Lauren Andersen  
Heidi Anderson  
Shane Bahr  
Alisha Johnson  
Meredith Mannebach  
Daniel Meza-Rincon  
Bart Olsen  
Jim Peters  
Nathanael Player  
Keri Sargent  
Neira Siaperas  
Nick Stiles  
Karl Sweeney  
Melissa Taitano  
Jeni Wood

#### **1. WELCOME: (Chief Justice Matthew B. Durrant)**

Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

**Motion:** Judge Todd Shaughnessy moved to go into an executive session to discuss protected documents. Judge Augustus Chin seconded the motion, and it passed unanimously.

#### **2. BUDGET PRIORITIES: (Ron Gordon)**

The Executive Appropriations Committee requested appropriation subcommittees to submit one list of priorities that includes both general fund requests and ARPA requests. Because of this, the Management Committee will need to decide if any ARPA requests are higher priorities than the six general fund budget requests the Judicial Council approved last August.

The courts were further informed that the Legislature intends to use a clause in ARPA that allows states to use funds on any item the state desires, regardless of whether it qualifies as an ARPA expense, if the state has experienced a decline in revenue during the pandemic. The Legislature has determined that the State has experienced a decline in revenue of \$1.1 billion meaning that the Legislature can use \$1.1 billion of ARPA funds for any expense, whether or not related to the pandemic. This means that the competition for ARPA funds will increase significantly. The Legislature is essentially considering ARPA funds to be the same as one-time general fund money. The courts were aware of this clause; however, the courts were operating under instructions to submit only ARPA-eligible projects. It is unlikely that the courts will receive all requested ARPA funds. It may also be helpful to remove some of the lower priority requests so that the courts can narrow the focus on the most important projects.

**Currently approved Council priorities**

<b>Priority</b>	<b>Title</b>	<b>Ongoing funds</b>	<b>One-time funds</b>
1 <sup>st</sup>	Judicial Assistants – Recruit and Retain	\$3,900,000	
2 <sup>nd</sup>	Information Technology – Development and Security	\$1,122,000	
	\$210,000 Online Court Assistance Program (OCAP) \$72,000 Microsoft Licensing \$25,000 Rural Courthouse Bandwidth Increases \$45,000 Webex Licensing \$450,000 Cybersecurity Infrastructure \$320,000 Cybersecurity Ransomware Insurance		
3 <sup>rd</sup>	Public Outreach Coordinator	\$120,000	
4 <sup>th</sup>	New Sixth District Court Juvenile Court Judge	\$449,100	\$25,000
5 <sup>th</sup>	Court Visitor Program Coordinator	\$92,100	
6 <sup>th</sup>	Statewide Treatment Court Coordinator	\$97,700	
	<b>Total</b>	<b>\$5,780,900</b>	<b>\$25,000</b>

**Judicial Assistants: Recruit & Retain  
\$3,900,000**

Purpose: stabilize unacceptable Judicial Assistant (JA) turnover rates by correcting inadequate compensation.

- More than 40% of judicial branch FTEs are JAs (455 FTEs), each of whom serves a critical core function in court operations. Courts simply cannot reliably operate without well-trained, dedicated JAs.
- Over the last 10 years, the 3-year average JA turnover rate has increased from a manageable 8.65% to a completely unsustainable 25% in 2021. After careful review, this appears to be primarily attributable to inadequate compensation:
  - in 2011, JA compensation was 80% of the average Utah non-farm rate, by 2021, that had slipped to only 70%; and
  - in 2016, JA compensation was \$1.92 (or 10%) less than comparable private sector employment, by 2020, that gap widened to \$4.51 (or 20%).
- The judicial branch is doing everything possible to internally address this issue, but the challenge requires legislative assistance and budget prioritization.

**Information Technology: Development & Security**

**\$1,122,000**

*Online Court Assistance Program (OCAP)*

\$210,000

Purpose: hire two dedicated OCAP technical support staff. OCAP is a computer system that helps self-represented parties generate necessary legal forms. For many individuals, OCAP is the only method for them to prepare documents to file or respond in a court case. The system requires continual maintenance and technical support to update for statute changes, security best-practices, and to expand to new case types.

*Microsoft Licensing*

\$72,000

Purpose: maintain upgraded Microsoft software. The courts rely on Microsoft Office as the standard for documents in the legal field. The licensing model for this software is now subscription-based, requiring ongoing annual renewal to maintain necessary access for judges and relevant staff.

*Rural Court Location Bandwidth Increases*

\$25,000

Purpose: provide parties, attorneys, judges, and court staff with sufficient bandwidth at rural courthouses. Internet bandwidth is limited in rural Utah. In the current technology-based legal landscape where web-based video is often used for official court business, insufficient bandwidth artificially constrains what can be accomplished in rural courthouses, limiting efficiency for patrons and for the courts that serve them.

*Webex Licensing*

\$45,000

Purpose: continued access to remote meeting software for court hearings. Remote court hearings are proving to be advantageous for parties and attorneys for many hearing types. The Judiciary anticipates these types of remote hearings will continue in the future, and needs funding to pay for necessary licensing.

*Cybersecurity Infrastructure*

\$450,000

Purpose: maintain a robust cybersecurity platform equal to modern-day challenges. The Judiciary's cybersecurity software protects court systems and data from cyberattack. This software is operationally necessary, blocking hundreds of thousands of potential threats every month. The software platform must be renewed in May 2022 to maintain existing protections.

*Cybersecurity Ransomware Insurance*

\$320,000

Purpose: obtain insurance to offset potential costs associated with any future successful ransomware attack. Though rare, government entities (including courts) have been victims of successful ransomware attacks over the last several years (e.g., Atlanta, Texas, Louisiana). Coupled with the "\$450,000 Cybersecurity Infrastructure" request above, this is a belt-and-

suspenders approach to insuring court operations without risking a potentially paralyzing fiscal impact.

**Public Outreach Coordinator**  
**\$120,000**

Purpose: establish consistent, sustainable bridges with the public, including marginalized communities. Previously paid for with one-time funding, this coordinator is currently providing critical support for public outreach and education in all of Utah's communities, with a special focus on those communities that have expressed perceived bias due to race and gender. These efforts are increasing public trust and confidence in the courts and should be funded ongoing.

**New Juvenile Court Judge – Sixth District**  
**\$449,100 ongoing and \$25,000 one-time**

Purpose: increase juvenile court capacity in six Utah counties to match demand. The Sixth District Juvenile Court includes Sanpete, Sevier, Piute, Wayne, Garfield, and Kane counties. Currently, a single juvenile court judge serves nearly 70,000 residents spanning across nearly 16,000 square miles. This regularly requires significant travel time, often resulting in unfortunate, but necessary, delay. This single juvenile court judge is carrying the caseload of 1.6 judges. An additional judge will allow the juvenile court to more promptly serve the child welfare needs and the juvenile delinquency challenges of the citizens of these rural counties.

**Court Visitor Program Coordinator**  
**\$92,100**

Purpose: improve ability to promptly provide reliable, verified guardianship information to judges. Since 2012, the Court Visitor Program has delivered an essential service to the courts by monitoring guardianships and conservatorships, providing reliable and verified information to judges through careful coordination with trained volunteers to investigate the circumstances and well-being of protected persons, locate guardians who do not keep the court updated, and audit records. Guardianship case filings have increased more than 30% over the last five years. Lacking sufficient resources, the program is unable to address existing needs promptly and adequately, taking up to 12 weeks (instead of the typical 6-8 weeks) to provide responsive information to the court.

**Statewide Treatment Court Coordinator**  
**\$97,700**

Purpose: provide support for the 65 district and juvenile problem-solving treatment courts operating across Utah. Problem-solving courts (like drug court, mental health court, and veterans treatment court) are dedicated court calendars staffed by a multi-disciplinary team of trained professionals to serve a specific population of individuals who receive treatment, community supervision, regular court appearances, and program support in order to help these individuals successfully exit the criminal justice system and enter lives of recovery and stability. Currently, these problem-solving courts operate without the benefit of a full-time statewide coordinator to provide operational and technical support, and to streamline education, certification, and evaluation efforts for delivery of effective services, including statewide performance-based data tracking.

**ARPA Requests for FY 2023**

<b>Priority</b>	<b>Title</b>	<b>Funds</b>
1 <sup>st</sup>	IT Access to Justice – Response to COVID, Part II	\$3,200,000
2 <sup>nd</sup>	Case Backlog – Response to COVID, Part II	\$1,540,000
3 <sup>rd</sup>	Interpreter Equipment	\$97,000
4 <sup>th</sup>	Eviction Court Facilitators	\$166,000
5 <sup>th</sup>	Self-Help Center	\$64,000
6 <sup>th</sup>	COVID Supplies	\$100,000
7 <sup>th</sup>	Public Outreach and Engagement	\$30,000
8 <sup>th</sup>	Legal Sandbox	\$649,000
9 <sup>th</sup>	Premium Pay for Essential Workers	\$2,500,000
10 <sup>th</sup>	Loss of Revenues – Public Parking Garage	\$843,000
	<b>Total</b>	<b>\$9,189,000</b>

**IT Access to Justice – Response to COVID-19 – Part II**  
**\$3,200,000**

The pandemic has required courts to shift away from in-person to virtual proceedings, accelerating a movement towards access to justice. By increasing virtual access and proceedings the courts not only resolve the pandemic issues but lay the groundwork for virtual access and proceedings (including attendant technical, educational, and translation services) which will expand access to justice, particularly for our self-represented and marginalized communities.

**Items included in this request include:**

- Appellate e-filing of cases replaces hand-delivery of case materials to the appellate court or email to appellate court staff - \$594,000.
- E-payment revamp provides ability to pay court fines, fees etc. at places convenient to the payer (e.g. walk-in retail locations, after-hour kiosks, etc.) creating ways for the unbanked to make payments without taking time off from work - \$475,000.
- Juvenile case pro se e-filing with digital signatures - \$125,000.
- Court workspace transformation from separate offices and cubes through creating “hoteling” workspaces where employees can maintain social distancing while maintaining team efficiencies for projects and daily work - \$825,000.
- Expand Xchange access to include free one-time use as well as access by tablet and phone - \$125,000.
- Grow MyCase payment options from PC only to tablet and phone which exponentially increases access for marginalized communities - \$180,000.
- Update CARE to be accessible by phone and tablet as well as offer ADA access - \$650,000.
- Add QR codes to MyCase to allow greater access for e-filing, documents and notifications - \$160,000.
- Phase 2 of enhancements to public portal to view hearings - \$120,000.

**Case Backlog – Response to COVID – Part II**  
**\$1,540,000**

This continues funding for senior judges, judicial assistants and other costs to reduce the backlog of cases including jury trials to pre-pandemic numbers. The amount requested was boosted \$540,000 to include proctored COVID rapid tests to protect jurors, witnesses and other court participants during jury trials. Efforts to reduce the backlog during FY 2022 have taken more time than anticipated. This request extends the extra staffing through June 30, 2023.

**Interpreter Equipment**  
**\$97,000**

This request will permit the courts to purchase 72 sets of multi-people interpreting equipment; ensuring all courts beyond Salt Lake County can provide language access in a safe manner that does not require the interpreter and limited English proficiency party to be next to each other.

**Eviction Court Facilitators**  
**\$166,000**

Funding will provide help for parties facing occupancy hearings – by hiring two time-limited eviction court facilitators based in Salt Lake County who would help to reduce homelessness for those impacted by the pandemic by:

- whenever possible, contacting defendants when eviction lawsuits are filed against them to explain their options;
- educating parties about rental assistance as soon as the occupancy hearing is scheduled;
- working with parties to apply for rental assistance;
- reminding parties to attend their hearings to hopefully increase attendance; and
- connecting defendants with social services agencies and housing providers.

**Self Help Center**  
**\$64,000**

Hire, for a period of one year, a family law attorney who will work with the court's IT Department to create entirely new family law forms that can be created, filed and retrieved on MyCase. MyCase can also be accessed through phones, something that the OCAP program does not allow. The forms will more closely resemble California's family law forms, which require the patron to very clearly choose what they are asking the court for (eliminating writing out their own wishes), and will result in very clear, enforceable language in their court orders

**COVID Supplies**  
**\$100,000**

Represents the ongoing expenditures for masks, sanitizer and other supplies (filters) to reduce the spread of COVID. This request seeks funding from July 1, 2021 through the end of FY 2023.

**Public Outreach and Engagement**  
**\$30,000**

This appropriation will fund incremental efforts by the Office of Fairness and Accountability's digital public outreach and engagement to ensure students are outreached

through virtual means so that they are aware of court resources and processes, especially as it relates to the state’s Clean Slate Law. The Utah State Courts OFA is also requesting funds to produce and distribute educational/promotional videos and targeted social media ads about court resources and processes, and hire a temporary Graphic Design/Content Creator Intern.

**Legal Sandbox**  
**\$649,000**

Represents 2 years of funding for the Supreme Court’s Office of Legal Services Innovation. The Supreme Court, as the government branch with the constitutional authority for the administration of justice, has made combating the access to justice crisis confronting Utahns of all socioeconomic levels a top priority. In this vein, the court created the Office of Legal Services Innovation and the Utah Legal Sandbox, seeking to use regulatory reform to enable and incentivize private and nonprofit sector innovation, diversification, and competition in the legal services industry while ensuring that vulnerable consumers are protected from harm.

**Premium Pay for Essential Workers**  
**\$2,500,000**

Premium Pay is part of the defined eligible ARPA areas. This request seeks to provide a modest amount of premium pay for essential court workers who provided the services to the public during the pandemic. Courts had to remain open and functioning during the pandemic. The request seeks a \$1.00 per hour premium pay amount for all days where a court field employee (primarily JAs and POs) regularly performed in-person services or handled documents that were handled by others in the performance of their regular court duties.

**Loss of Revenues – Public Parking Garage**  
**\$843,000**

This request seeks recovery under an ARPA provision to cover reduced revenues due to COVID. The courts were the recipients of parking garage fees for the public parking areas below the Matheson Courthouse which were used for all types of repairs and maintenance items (carpet, remodel of space, repairs). Due to COVID, the usage of the public parking went below the cost of retaining an operator so parking is now free. The request is to recover past and forecasted losses through December 31, 2023.

**Motion:** Judge Connors moved to go out of executive session. Judge Augustus Chin seconded the motion, and it passed unanimously.

<b>Ranking</b>	<b>Item</b>	<b>Ongoing Funds</b>	<b>One-time Funds</b>
1	Judicial Assistants Recruit and Retain	\$3,900,000	
2	IT Technology Development and Security	\$1,122,000	
	Access to Justice IT Part II		
3	Appellate E-filing		\$593,400
4	E-Payments Revamp		\$475,000
5	Xchange		\$125,000
6	MyCase		\$180,000

7	ARPA Case Backlog Part II		\$1,000,000
8	ARPA COVID Supplies		\$640,000
9	Public Outreach Coordinator	\$120,000	
10	Sixth District Additional Juvenile Court Judge	\$449,100	\$25,000
11	Court Visitor Program Coordinator	\$92,100	
12	Statewide Treatment Court Coordinator	\$97,700	
13	ARPA Legal Sandbox		\$649,000
14	ARPA Self-Help Forms		\$64,000
15	ARPA Interpreter Equipment		\$97,000
16	ARPA Eviction Court		\$166,000
17	ARPA Public Outreach		\$30,000
18	Juvenile Pro Se E-Filing Including Digital Signatures		\$125,000
19	Modernize CARE to a Responsive Design/ADA Compatibility		\$650,000
20	Adopt Workspaces for COVID Safety		\$826,500
21	QR Codes Embedded on Court Documents		\$160,000
22	Public Portal for Hearings		\$120,000
	<b>Total</b>	\$5,780,900	\$5,925,900

**Motion:** Judge Connors moved to approve the revised list as described (shown in the table above). Judge Brook Sessions seconded the motion, and it passed unanimously.

**3. STAKEHOLDER PRESENTATIONS TO THE JUDICIAL COUNCIL: (Ron Gordon)**

This item was not addressed.

**4. ADJOURN**

The meeting adjourned.